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FAMILY COURT CONCEPT

SURVEY OF MISSOURI INTEREST

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE

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October, 1985

FAMILY COURT

SURVEY OF MISSOURI INTEREST

Prepared by
Missouri Juvenile Justice Review Committee
October, 1985

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Missouri Juvenile Justice Review Committee
P.O. Box 1332
Jefferson City, Missouri 65102

INTRODUCTION

The concept of a Family Court in Missouri was introduced during the 1985 legislative session with the filing of House Bill 234. The bill did not pass, but the idea continues.

In its own study of the issue, the Missouri Juvenile Justice Review Committee (MJJRC) reviewed material from several resources, including other state codes, from which a concept paper was developed. This paper and a survey instrument was then sent to the forty-four judicial circuits and State Directors of the Division of Family Services, Division of Youth Services and Department of Mental Health.

MJJRC provides this report, not as a thorough study of the relevant issues, but as a means of offering to all interested parties, information helpful in assessing not only the interest in but also the relevant concerns regarding a Family Court system for Missouri.

While MJJRC has made no attempt to interpret the survey results or analyze the respondents' comments, it is obvious that more thought, study and discussion is needed on the subject.

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PART I

CONCEPT PAPER ON FAMILY COURT IN MISSOURI

The material provided herein results from a preliminary examination of resource material and is styled in a question and answer format. The intent of this section is to provide information for consideration and discussion of a Family Court in the State of Missouri.

A. WHAT IS THE PURPOSE OF FAMILY COURT?

Family Court would allow a consistent approach to the solution of legally related family problems, with jurisdiction over matters involving the relationship of husband/wife or parent/child. Family Court expands jurisdiction beyond Juvenile Court and necessitates an expansion of resources.

There are several states which have Family Courts, i.e., Hawaii, Rhode Island, Delaware, New York, District of Columbia, South Carolina, New Jersey as well as counties in several other states.

No two states have Family Courts which include the same areas of jurisdiction. The following outline lists matters that may fall within the jurisdiction of Family Courts.

Jurisdiction over children:

- Delinquency
- Child Abuse/Neglect
- Status Offenses
- Termination of Parental Rights
- Adoption
- Guardianship
- Interstate Compact on Juveniles
- Interstate Compact on Children
- Commitment of mentally retarded/mentally ill child

Jurisdiction over adults:

Offenses against child by parent, guardian or adult
having legal or physical custody
Child support
Dissolution of marriage
Annulment
Paternity
Battered spouses
Uniform Reciprocal Enforcement of Support
Commitment of mentally retarded/mentally ill adults

B. HOW IS A FAMILY COURT ESTABLISHED?

1. Legislation of a Family Court Act.
2. Rule making power of the Supreme Court.

C. WHAT ARE ARGUMENTS FOR FAMILY COURT?

1. Coordination of efforts and information under one Court of all child and family related matters. This requires centralization of records and coordination of activities concerning the family unit addressed by a Court under a common philosophy.

2. Preservation of the family unit and best interest of children are goals addressed through the use of appropriate social science knowledge and techniques.

The emphasis is on developing healthy children within a stable, cohesive family by which to prevent child abuse/neglect and/or delinquency.

Family Court should be the Court of highest jurisdiction or a division therein. All literature points out that to be successful a Family Court shall have original jurisdiction and be allocated sufficient resources to meet the social service needs of those matters before it.

D. WHAT DOES JURISDICTION OVER INTRA-FAMILY CRIMINAL
OFFENSE MEAN IN TERMS OF FAMILY COURT?

Family Court would have the authority to adjudicate, impose sentence or transfer to general criminal division adults where the perpetrator and victim are members of the same household or closely knit family unit.

Intake on such offenses would be through Family Court services. Family Court would handle the referral unless:

1. the family unit does not require services;
2. the seriousness of the alleged adult conduct is inappropriate for Family Court; or,
3. the prior offense record of the accused adult makes it inappropriate for Family Court.

An attorney in the Prosecuting Attorney's office might be assigned to handle criminal matters in Family Court and would work with the Family Court intake unit to make determinations on filing cases.

E. WHAT MIGHT BE SOME OF THE DRAWBACKS TO A FAMILY
COURT IN MISSOURI?

1. One is the competition for time and attention between traditional Juvenile Court matters, (i.e., delinquency and neglect) and adult matters (i.e., divorce, separation, alimony and support).

2. Without sufficient resources to intervene at the appropriate level (i.e., divorce-custody issues) the Court might operate as a Family Court in name only.

F. HOW MIGHT A FAMILY COURT OPERATE WITHIN THE MISSOURI
SYSTEM?

The primary focus would appear to be coordination of information and services. One means of ensuring the Court has available to it all relevant and/or necessary data would be to have one intake unit for cases referred to Family Court. For example, a dissolution of marriage case which involved custody of children, would be filed by the attorney for petitioner and automatically be referred to intake for review. What services were available or what preliminary work was required by the Court would direct the resulting case flow.

Several questions might be asked. For instance, should all divorce cases involving custody of children be reviewed for consideration of:

1. attitude of the parents toward each other and the child(ren);
2. consideration of an explicit visitation plan;
3. child support;
4. is counseling needed prior to the divorce action; or,
5. is the case serious enough to require on-going counseling and supervision/monitoring to ensure the child's emotional safety and healthy growth.

The intake unit could automatically request an interview with the divorcing couple or it could be the responsibility of the attorneys to file certain information with the Court for review.

Court Services could offer or make available services to minimize as much as possible any emotional trauma for the child(ren) involved, such as:

1. informational meetings that might address:
 - a. the social and emotional aspects of divorce;
 - b. the legal aspects and responsibilities of divorce;
 - c. how to prepare your child(ren) for divorce; and,
 - d. how to work with your child(ren) after divorce; and/or,
2. referral to appropriate counseling resources.

Services for Family Court are essential, however, many services do not have to be provided directly through the Court. The Court should have the ability to access

them in the best interest of the child/family. Also the Court should have available as much information as possible to make decisions. This would require a coordination of information among the Court's own internal systems that currently exist.

For reference purposes, charts are provided which delineate jurisdictional issues which may fall under a Family Court system, current statute reference, current division of the Circuit Court and current service agencies.

JURISDICTION OVER CHILDREN:	STATUTE REFERENCE	COURT	SERVICE AGENCIES
Delinquency	Chapter 211	Circuit Court, Juvenile Division	Juvenile Office, Division of Youth Services, Department of Mental Health, Private Resources
Child Abuse/Neglect	Chapter 210 Chapter 211	Circuit Court, Juvenile Division	Juvenile Office, Division of Family Services, Department of Mental Health, Private Resources
Status Offenses	Chapter 211	Circuit Court, Juvenile Division	Juvenile Office, Division of Family Services, Division of Youth Services, Department of Mental Health, Private Resources
Termination of Parental Rights	Chapter 211	Circuit Court, Juvenile Division	Juvenile Office, Division of Family Services, Private Resources
Adoption	Chapter 453	Circuit Court, Juvenile Division	Division of Family Services, Private Resources
Guardianship	Chapter 475	Circuit Court, Probate Division	
Interstate Compact on Juveniles (Delinquency/ Status)	Chapter 210	Circuit Court, Juvenile Division	Division of Youth Services
Interstate Compact on Children (Neglect/Abuse)	Chapter 210	Circuit Court, Juvenile Division	Division of Family Services
Commitment of mentally retarded/mentally ill child	Chapter 211	Circuit Court, Juvenile Division	Juvenile Office, Department of Mental Health, Division of Family Services

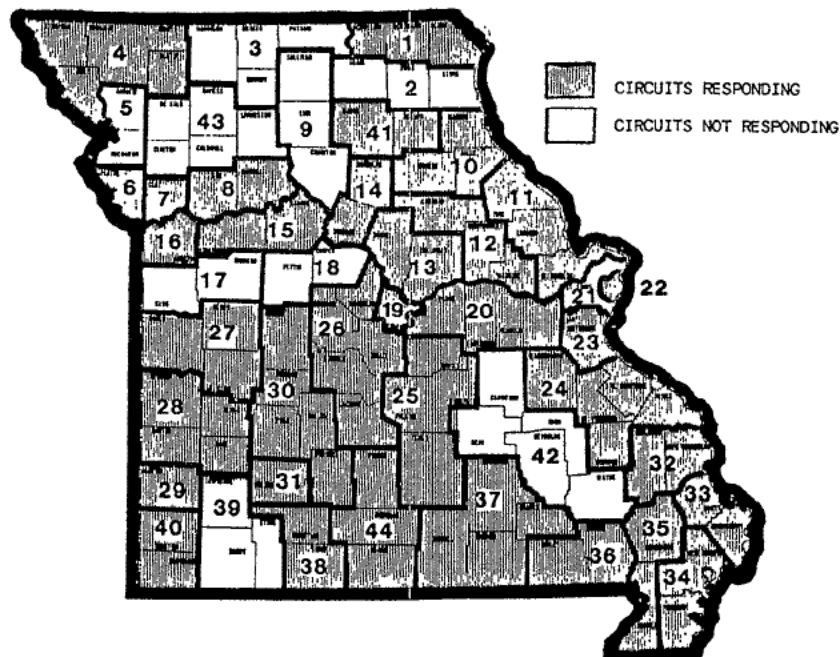
JURISDICTION OVER ADULTS:	STATUTE REFERENCE	COURT	SERVICE AGENCIES
Offenses against child by: parent, guardian, or adult having legal or physical custody	Chapter 568 Chapter 565 Chapter 566	Circuit Court, Criminal Division	Prosecuting Attorney, Probation and Parole
Child Support	Chapter 454	Circuit Court, Domestic Relations	Prosecuting Attorney, Circuit Clerk
Dissolution of Marriage (Uniform Child Custody Jurisdiction Act)	Chapter 452	Circuit Court, Domestic Relations	Juvenile Office, Division of Family Services, Private Resources
Annulment	Chapter 451 and Case Law	Circuit Court, Domestic Relations	
Paternity	Case Law	Circuit Court	
Battered Spouse	Chapter 455 (Adult Abuse)	Circuit Court, Domestic Relations	Private Resources
Uniform Reciprocal Enforce- ment of Support	Chapter 454	Circuit Court	Prosecuting Attorney
Commitment of mentally retarded/mentally ill adults	Chapter 475	Circuit Court, Probate Division	

PART II

SURVEY RESULTS

Provided herein are the results of a survey sent to the forty-four Judicial Circuits and the State Directors of the Division of Family Services, Division of Youth Services and the Department of Mental Health.

Returns were received from sixty-five (65) individuals with thirty-five (35) circuits represented. Responses were received from: twenty-three (23) Judges, thirty-three (33) Juvenile Officers of Deputy Juvenile Officers, one (1) therapist, one (1) Attorney, five (5) unknown, and the Department of Mental Health.



MJJRC has made no attempt to interpret the survey results provided and simply offers the information gathered from the sixty-five (65) respondents for the information and consideration of the reader.

In addition to the actual survey results, the comments offered by respondents, identified under the category of JUDGES, JUVENILE OFFICERS and STAFF and OTHER, are as well provided.

The survey addressed three concerns: receptiveness to the concept of a Family Court system; areas of jurisdiction; and, available resources. The questions, as asked, and the responses provided are as follows:

QUESTION A:

Do you believe such a concept (Family Court) should be considered for Missouri?

31 Yes

32 No

1 "Yes and No"

1 "It needs more study"

Clarifying comments:

JUDGES:

-Court time for family matters would not be competing with other Court matters. Question: What Clerks would be necessary?

-It's a good idea to consider it, but I have serious reservations about implementing it because of the drastic changes it will cause throughout judiciary.

-This would combine many Court services under the Judge and Court.

-Family Court cases have increased greatly in number and have become so complex proper amount of time cannot be given to these cases because of time required of other cases before the Court.

-Because of central coordination of common problems in one Court.

-I believe the concept of unifying matters relating to the family in one division and one Court is commendable.

-Our present law is adequate to handle these matters.

-More bureaucracy and cost, less efficiency.

-Don't fix what works. We have no need in out-state Missouri for a Family Court.

-One Judge dealing constantly with domestic cases will suffer burn out or insanity before long, and a rotation system would defeat the purpose.

-Unless Courts granted full authority to control services (no) need for such a broad concept (this condition not likely to be met).

-In a two Judge Circuit such as ours, neither myself nor my colleague would want to handle primarily, or only, the above-particularly domestic relations matters.

-I believe the concept is premature as attorneys and Judges are still learning and adopting to the 1979 Judicial Article, Probate Code and Criminal Code--certainly it should be considered in future.

-No need for it. Just further expenses. Present system adequate.

-Not needed--only adds to an already overburdened bureaucracy--strongly oppose.

-Another layer of bureaucracy would not solve any problems. If Division of Family Services would be brought under control and work with the Court, our present system will work.

-We have a rather good system now which has not been utilized to the most that it has; you need too many resources; let's improve what we have.

JUVENILE OFFICERS and STAFF:

-Consolidates resources, coordinates efforts, centralizes communications. Provides for more efficient use of resources, and allows better understanding of problems which benefit both the Court and families.

-Believe it should be considered to consolidate various network of Court, welfare, and state child-family services.

-Particularly for young offenders, under 12, many times it is a family in need of services, rather than the child in need of care and treatment. Family Court should be an option, not a replacement for 211.

-Several matters I have come into contact with seem to fall between the cracks of Juvenile Court, Probate Court, and Domestic Relations, etc.

-We have learned that children problems affect the family and family problems affect the child.

-The idea is great. The concern is the resources available.

-Would better serve interests and needs of children and youth. Coordination of effort and/or services would be better facilitated by a total "Family Court System".

-If you have a child referred to Juvenile Court with a problem, usually the child's family is having some type of struggle and they need outside assistance.

-A new or modified approach in dealing with juveniles and their families is definitely needed in Missouri.

-Need more resources. Believe if had a Family Court that parents would cooperate more.

-Many times it is necessary for Juvenile Court and Domestic Relations to work together. It seems this would be easier in Family Court System.

-The need to combine all juvenile related matters under one roof. Take a Court and set up a complete program for juveniles, should be cheaper, more efficient in the long run.

-When the Juvenile Court adds or removes a child from the family setting, this action affects the functioning of the entire family.

-Resources for families could be coordinated better and more consistent handling of cases and better treatment could be effected.

-Indirectly, the Juvenile Court is involved in most of these basic issues and deals with many of them day-to-day.

-Because many times we are put into a position that we are helping with the Circuit Court. We just need more resources. I believe if we had a Family Court that we would be able to get more cooperation from the parents.

-I am not as yet convinced that there are any net advantages.

-Lack of sufficient resources. Increase in dissolutions alone would consume more time than is available for 1-2 man circuits.

-The various Divisions of the Circuit Court are now totally able to perform any services that the proposed Family Court system would provide. Family Court System would cost three times as much, utilize three times the staff, and provide one-half the service.

-Not enough resources available.

-I don't believe Missouri presently has the financial resources available, though the concept is obviously a good one.

-I feel that the present system is fine and this would give too much work under the heading of juvenile.

-At this point, I don't believe a Family Court would provide service delivery any more quickly or more efficiently than the present system.

-Currently, Missouri seems headed toward a more selective jurisdiction over juvenile offenders. Also, parens patriae approach has given way to a legalistic process. However, such a process is not conducive or successful in resolving the multitude of family issues.

-It would be a deluge of custodial battles being confused with abuse/neglect and extend the responsibility of custodial home studies to the Juvenile Officers.

-Not enough personnel available in this Circuit to make effective.

-Caseloads already exceed manpower and funds.

-It might be feasible in metropolitan areas, but the transition in smaller circuits would be too costly and time consuming to offset the benefits.

-I like what we have.

-Services to juveniles would tend to stop because adults are more vocal, get attorneys and use political persuasion whereas children do not.

OTHERS:

-Many of the problems youth encounter are partially due to problems the family face (as a whole). Therefore, if you deal with the whole problem (the family) there should be more success.

-More coordinated approach to family-related problems (divorce, delinquency, etc.)

-Such a system should enhance the delivery of services to the family. However, such a program should not be initiated unless there is appropriate manpower and financial resources available and uniformity among the Courts.

-Would place all matters pertaining to children under "one roof".

-I believe all the elements for administration of a Family Court without designating as such are in place under the recent Court reorganization. Efforts may best be directed to the Presiding Judge of each Circuit if you believe services could be enhanced or are now being improperly rendered.

-I don't believe a unified Court approach can spread its focus effectively across such a broad area.

-It expands the Court's jurisdiction over family matters. It would require rotating Judges in our Circuit. No Judge could tolerate all of those problems. It would either turn the Judge into an Administrator or else put control over too much in an appointed official. Bigger is not better.

QUESTION B:

Jurisdiction within Family Court may include any of the following: (Please check (X) those you think could best fit within a Missouri system.)

The following provides the numerical response to each item:

Jurisdiction over children:

- 42 Delinquency
- 45 Child Abuse/Neglect
- 40 Status Offenses
- 44 Termination of Parental Rights
- 45 Adoption
- 37 Guardianship
- 37 Interstate Compact on Juveniles
- 39 Interstate Compact on Children
- 24 Commitment of mentally retarded, mentally ill child
- 2 Other: a) not all delinquency and not all status
b) guardianship of person of adult

Jurisdiction over adults:

- 36 Offenses against child by parent, guardian or adult having legal or physical custody
- 29 Child Support
- *31 Dissolution of Marriage
- **22 Annulment
- 28 Paternity
- *27 Battered Spouses
- 27 Uniform Reciprocal Enforcement of Support

13 Commitment of mentally retarded/mentally ill adult

3 Other: a) Elderly-abused or in need of care
b) Guardianship of person of adult
c) Jurisdiction over parents and their legal responsibility for their children (e.g. school attendance, prosecute parents)

* Qualified answer by indicating "only if children and/or custody involved".

** Qualified answer by indicating "only if children involved".

QUESTION C:

Do you believe sufficient resources exist to meet the possible needs resulting from a Family Court System?

18 Yes

45 No

1 "Yes and No"*

*This respondent stated that judicial functions should be reserved for the Family Court and that treatment and administration should be performed by another agency acting under court order.

(Only 64 respondents addressed this question.)

Clarifying comments:

JUDGES:

-Any present inconsistency is because the Division of Family Services sets policies and procedures independent of the Courts and Juvenile Authorities. Bring them under control and supervision of Juvenile Court and you can have a "consistent approach".

-Questionable. Perhaps would need more services targeted towards dissolution/custody/support causes if system incorporated that realm.

-If it does not get too large.

-Having a Circuit Judge presiding over several Circuits should be provided for in order to alleviate the work load now required of the regular Judge. Further, this concept of Family Court provides for the consolidation of all records of the issues at hand without gathering information from several sources which slows the Court process.

-I believe we have sufficient resources. I believe that the resources are often centralized and not responsive to the immediate needs of the people involved. For example: Family Services "Manning tables" are built around case load to be kept high. Occasionally, people no longer need the services they are getting; in other cases, we have to go long distances to find a place to put a child, or use an unsuitable facility, such as a room in a police station or sheriff's office for juveniles.

-You got to be kidding-mental health really doesn't exist; they are an illusion, not a reality. Juvenile resources would have to triple over what they are now and that means the State picking up the cost. I could go on, but what is the use. We can't get pieces of the program to work right. To create a new system now, in my opinion, is not possible unless there is a drastic change in attitude and that is not present. Let us not get carried away with change for change's sake. There are many attainable goals which would bring needed change at reasonable cost and do-able.

-I see no reason to create or name another Court. I believe the Statutes can be passed to accomplish same, keeping the present Court set-up.

-Trouble enough now getting funding for existing Court System.

-The present system in this Circuit works very well. I see no reason to change it as it applies here. The cost would be substantial, I suspect, with anticipated improvements minimal.

-I think the present system could be improved with a "Family Court".

-Because if Court is to be involved in family discussions, there must be accurate information available and

someone to see that the Court's Order is carried out. The entire concept is another step toward increased Court and grant regulation. As the Court takes over the responsibility of running a family, it dilutes the authority of parents. Can anyone say that we do a better job?

-Would require broader based services than now are available.

-To provide Court with duties and responsibilities and leave the power to see services provided in above agencies (now poorly delivered) would be a farce.

JUVENILE OFFICERS and STAFF:

-Most resources exist; however, need educated party to assess need and link client to most appropriate resources. Additional personnel will be needed.

-If the Court of jurisdiction has the authority, then the Court can order appropriate services.

-I feel the resources are there. It is simply a matter of coordinating the programs toward the benefit of the child. One Court with access to the above agencies without difficulty should be able to handle all problems.

-If all these agencies shared resources and services already existing and made it easier to communicate and utilize each others resources, there are, at least minimally, enough services presently.

-Budgets are too limited to expand the manpower of each division to take on the extra responsibility of caseload.

-Such a system would require extensive realignment and extensive renovation of existing departments as well as additional personnel.

-Rural Circuits do not have the needed services readily available. We have to wait for placement or services.

-In some areas Division of Family Services and Juvenile Court Services may be the only resources available.

-To include these areas would take a complete reworking of the system.

-Resources within a Family Court approach would need to be increased. Missouri, at present, doesn't have enough resources for children as the court system now is.

-Not enough exist or are readily accessible for dealing with the needs of the family as a unit-especially in rural areas of our Circuit.

-Lack of facilities, manpower, inconsistency in agency policies.

-Division of Family Services, each year, moves away from providing services to the Courts, except for Juvenile Court. To institute the "Family Court" it would be necessary to completely "rethink" and "realign" our present system of resources (Division of Family Services, Juvenile Office, Division of Youth Services, Private Sector, Probation and Parole.)

-There now exists a paucity of resources for children coming within 211. Once you broaden jurisdiction such as Family Court, I think you will broaden the Court's authority to mandate other services for the family, which do not exist. I think you have to be very cautious when providing services to family and to the juvenile--historically adults' needs often become the louder voice.

-When you take a system that works, tear it apart and restructure it into a system that does not work, it usually takes three times the staff to make excuses as to why the system is not working.

-Need more therapy-oriented persons.

-Division of Youth Services: Handles delinquent youth committed to them--some family therapy (not now).

-Division of Mental Health: How do you get help here?

-Juvenile Court: Not enough personnel in rural areas and many misconceptions of what a Juvenile Court can and/or cannot do relative to children.

-Caseloads already exceed manpower and funds.

-The Courts would need the power to make the agencies provide services needed by the children. I would much rather see a one-agency concept that could provide all of the services needed by children. (A Division of Children and Family Services that could provide evaluations, placements, mental health services, etc.)

-Almost have sufficient resources to meet possible needs resulting from a Family Court system. "Our court" at the present time has jurisdiction over children in all areas checked in "B" above with the exception of guardianship. We also undertake child custody studies for the Domestic Relations Courts is dissolution, annulments, paternity and, when requested, in battered spouse cases. Child support enforcement services need to be further strengthened. More shelters and services, e.g., counseling, employment for battered spouses, mentally disturbed/retarded and elderly are needed.

OTHER:

-Yes, if properly co-ordinated, although additional staff in each department may eventually be needed, especially in areas outside St. Louis City, St. Louis County, and Jackson County. At the start, the Family Court should not "chew off a bigger mouthful than it can swallow".

-Fragmented metro areas have services many rural communities do not.

-Because we do not currently have all the funds necessary to provide the services needed currently. Establishing such Courts will require additional funds for administration, and funds cannot be in lieu of those already being provided for services.

-All of Division of Youth Services, Division of Family Services, Probation and Parole and mental health, not to mention the Juvenile Officer, are terribly underfunded. To now add an extra dimension of social work demands on them makes an impossible situation.

-With the counties funding the Deputy Juvenile Officers, I don't feel that they have enough funds to pay for programs that would help the office run more effectively.

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S U R V E Y

FAMILY COURT CONCEPT

CIRCUIT _____

POSITION _____

PREPARED BY: Missouri Juvenile Justice Review Committee DATE _____

During the past legislative session HB-234 introduced the concept of Family Court. The bill was defeated, but the idea continues. The purpose of this survey is to poll your ideas and whether you consider this an issue worth further examination.

A. Family Court allows a consistent approach to the solution of legally-related family problems, with jurisdiction over matters involving the relationship of husband/wife or parent/child. Family Court expands jurisdiction beyond Juvenile Court and necessitates an expansion also of resources.

Do you believe such a concept should be considered for Missouri?

_____ Yes _____ No. Why? _____

B. Jurisdiction within Family Court may include any of the following: (Please check (X) those you think could best fit within a Missouri system.)

Jurisdiction over children:

_____ Delinquency
_____ Child Abuse/Neglect
_____ Status Offenses
_____ Termination of Parental Rights
_____ Adoption
_____ Guardianship
_____ Interstate Compact on Juveniles
_____ Interstate Compact on Children
_____ Commitment of Mentally Retarded
_____ Mentally ill child
_____ Other _____

Jurisdiction over adults:

_____ Offenses against child by parent, guardian, or adult having legal or physical custody
_____ Child Support
_____ Dissolution of Marriage
_____ Annulment
_____ Paternity
_____ Battered Spouses
_____ Uniform Reciprocal Enforcement of Support
_____ Commitment of mentally retarded/mentally ill adult
_____ Other _____

C. An essential component of Family Court is Social Service availability. Currently services are provided by the Division of Youth Services, Division of Family Services, Department of Mental Health, Probation and Parole, Juvenile Court Services, and private resources.

Do you believe sufficient resources exist to meet the possible needs resulting from a Family Court system? _____ Yes _____ No.

Why? _____

Return to MJJRC, P.O. Box 1332, Jefferson City, Missouri 65102

MISSOURI JUVENILE JUSTICE REVIEW COMMITTEE
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Child Psychiatry
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Program Development
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Division of Youth Services
Jefferson City, MO 65102

Mr. Paul Dow
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Missouri Child Care Assn.
Jefferson City, MO 65102

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Circuit Judge
16th Judicial Circuit
Kansas City, MO 64106

STAFF

Ms. Jane Smith
Administrative Assistant
Jefferson City, MO 65102

